

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2004-013043

11/29/2005

HONORABLE PETER SWANN

CLERK OF THE COURT
D. Kenney
Deputy

FILED: 12/09/2005

APRIL LEANN SANCHEZ PETERSEN, et al.

STEVEN M FRIEDMAN

v.

MARCO ANTONIO HERNANDEZ RIVERA, et
al.

THOMAS P BURKE II

SERENA C MONTAGUE

MINUTE ENTRY

8:40 a.m. This is the time set for Status Conference. Plaintiffs are represented by counsel, Steven Friedman and Serena Montague. Defendants are represented by counsel, Thomas Burke, II.

Court reporter, Judie Bryant, is present.

Discussion is held.

On the Court's own Motion,

IT IS ORDERED vacating Pretrial Management Conference set on January 3, 2006 and resetting same to **December 15, 2005 at 8:45 a.m.**, in this Division. (15 minutes)

IT IS FURTHER ORDERED affirming Jury Trial set on **January 9, 2006 at 9:30 a.m.**, in this Division.

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PRETRIAL MANAGEMENT ORDERS

IT IS ORDERED that the Joint Pretrial Statement (JPTS) in accordance with Rule 16(d), A.R.Civ.P., is due in this division by 5:00 p.m., **five (5) judicial days before the Pretrial Management Conference set for December 15, 2005, as scheduled in the trial setting order.**

IT IS FURTHER ORDERED with the JPTS, counsel shall deliver to this division, copies of the following:

A. **A jointly completed time and witness estimate list.** The Court will use the list to predict the length of the trial for the jurors and to direct counsel to follow the trial time limits established. Any time limitation set will be reasonable presumptive limits subject to modification upon a showing of good cause.

B. **A joint set of agreed-upon preliminary and final jury instructions.** This does not include Preliminary Civil RAJI or Standard Civil RAJI 1 – 15, which the Court will be given without request.

C. Separate sets of requested instructions that have not been agreed upon. Please read *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993), and the RAJI Civil Statement of Purpose and Approach before preparing the request for non-RAJI instructions.

D. Proposed Findings of Fact and Conclusions of Law, if a request has been or will be filed Pursuant to Rule 52. If no proposed Findings of Fact and Conclusions of Law is received, the request shall be deemed waived.

E. **Proposed *voir dire* questions** that the Court will give.

F. In jury trial cases the parties shall jointly prepare a brief summary of the case which the Court will read to the jury at the commencement of *voir dire*.

G. Juror notebooks. The Court encourages use of juror notebooks in appropriate cases. Stipulating the contents in evidence is necessary. Key exhibits may be included, along with diagrams, photographs, timelines, non-argumentative summaries of positions of liability and damages and other information helpful to jurors.

H. Counsel are to identify in/with the JPTS all deposition or other transcribed testimony that may be offered at trial. The proposed testimony is to

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be identified by reference to page and line numbers. Objections, if any, to such testimony, and the reasons for such objections, are also to be set forth.

MOTIONS IN LIMINE

Motions *in limine* shall be filed only in accordance with Rule 7.2, Ariz. R. Civ. P. Motions *in limine* shall be filed thirty (30) days before the PTMC and such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397, 499 P.2d 152 (1972). A written response to a motion *in limine* may be filed no later than ten (10) days thereafter. The Court will rule on the motions *in limine* without oral argument. If the Court wishes to hear argument, the argument will be heard at the PTMC. No replies shall be filed.

Unless prior leave of the Court is obtained for good cause shown, no party may file more than five (5) motions *in limine*, including all subparts.

MARKING EXHIBITS

At least five (5) judicial days before the PTMC, the trial lawyers or their knowledgeable assistants shall appear in this division to present all exhibits. The exhibits will be marked serially as they are listed in the LIST OF EXHIBITS which will be prepared by counsel and, if possible, downloaded onto a disk which should be given to the clerk. The parties shall advise the division, referring specifically to the pretrial statement, which exhibits may be marked directly in evidence. All exhibits will be clearly marked to correspond with the list provided. ***Counsel are directed to meet in person to exchange the exhibits before coming to court. Counsel will make sure that they do not bring to the clerk a set of exhibits that include duplicate exhibits.*** Counsel should not reserve exhibit numbers for all Defendant's exhibits, all Plaintiff's exhibits, miscellaneous demonstrative exhibits, and the like. Counsel shall also present original depositions for filing at that time. Written stipulations to admit specified exhibits in evidence are encouraged.

The Court will hear and rule upon objections at the PTMC. The rulings will be stated on the record, using exhibit numbers. All objections to known exhibits and witnesses must be made before or during the Pretrial Management Conference or will be deemed to have been waived.

IT IS FURTHER ORDERED that counsel, at the PTMC, shall be prepared to discuss:

- A. Time limits in *voir dire*, opening statements, examination of witnesses and closing arguments.
- B. Stipulations for the foundation and authenticity of exhibits.

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C. Jury instructions (preliminary and final), juror notebooks (Counsel shall bring any proposed jury notebooks to the conference), mini-opening statements and *voir dire*.

D. Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of videotaped depositions.

Narrative summaries with brief excerpts of deposition question and answer testimony are preferred at trial rather than the reading in of pages of testimony.

E. Use of "short trial" or summary jury trial.

F. Any special scheduling or equipment issues.

G. Status of settlement of the case.

COUNSEL WHO WILL BE THE TRIAL LAWYERS ON THE CASE ARE
REQUIRED TO ATTEND THE PRETRIAL MANAGEMENT CONFERENCE.

FAILURE OF TRIAL COUNSEL TO ATTEND THE PRETRIAL MANAGEMENT
CONFERENCE MAY RESULT IN PERSONAL SANCTIONS.

SETTLEMENT

If the case is set for a jury trial one-day's jury fees will be assessed unless the Court is notified of settlement before 2:00 p.m. on the judicial day before trial.

8:45 a.m. Hearing concludes.

ATTACHED: Time Estimates Form:

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CAUSE NUMBER _____

CASE CAPTION _____

PLAINTIFF'S COUNSEL _____

DEFENDANT'S COUNSEL _____

(NOTE: Add additional lines as needed for additional parties and or witnesses.)

TIME ESTIMATES FOR TRIAL

Opening Statement and Closing Argument

PLAINTIFF'S OPENING STATEMENT	
DEFENDANT'S OPENING	
PLAINTIFF'S CLOSING	
DEFENDANT'S CLOSING	
PLAINTIFF'S REBUTTAL	

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Estimate of Time for Witness Examination

PLAINTIFF'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

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Estimate of Time for Witness Examination

DEFENDANT'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

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GUIDELINES FOR COUNSEL WHEN PREPARING EXHIBIT FOR USE IN COURT

Exhibits are due to the Court **five business days prior to the pretrial management conference.**

Counsel are to provide a workable list of exhibits in a format (email or 3 ½" disk) that the clerk can access to transfer information to the court's exhibit information system. The list should include a description of each exhibit. (See blank sample of an exhibit table below as a reference.) Do not put numbers on the exhibits.

Exhibit Description Information:

The descriptions should be verifiable when viewing the exhibit. Counsel are encouraged to use a title page on each exhibit. A title page is beneficial because it specifically identifies the materials for the court and counsel. **Do not** put an exhibit number on the title page – just the description of the exhibit, *i.e.* "Letters to Jones from Smith".

Examples of a correct description:

Journal Pages¹
Photograph²
List of dates³

Examples of incorrect description

Pages from John Jones' journal¹
4 x 6 photograph of victim's car²
List of dates of meetings between John and Tony³

1. If it cannot be verified that the journal is John Jones' that information should not be included in the description.
2. The size of a photograph should not be listed. The photograph should not be described.
3. Unless the document is labeled as "meeting dates between John and Tony" that information should not be included.

No bates stamp references or number of pages in documents should be used.

If counsel are submitting large charts, blow-ups or maps, please include a small version which can be marked as the exhibit and can go into the jury if in evidence. The blow-ups, charts and/or maps can be used as demonstrative but will not be marked as exhibits and will be returned to counsel.

Please do not submit exhibits in notebooks.

For additional assistance in preparation of exhibits contact the courtroom clerk at 602-506-8946.

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CASE CAPTION:
TIME ESTIMATES

The foregoing are based on the best estimates of counsel of the time reasonably needed to complete the necessary examination of the witnesses listed.

Counsel for Plaintiff

Counsel for Defendant
